

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2140 – HB 2809

March 12, 2012

SUMMARY OF AMENDMENT (014114): Deletes all language after the enacting clause. Requires legislation to contain express language creating or conferring a private right of action before the right will exist and prohibits a court, licensing board, or administrative agency, in the absence of express language, from impliedly creating or conferring a private right of action. Specifies that the language in the proposed legislation is not to be construed to impair a court's ability to recognize a private right of action that was recognized by the courts before the effective date of Tenn. Code Ann. § 1-3-119 as arising under a statute, unless the statute is amended after the effective date of Tenn. Code Ann. § 1-3-119 to expressly bar the private right of action; to create or confer a private right of action in the absence of a controlling statute on each cause of action contained in the complaint if the action is based on common law; to utilize the doctrine of negligence per se, or to recognize a private right of action commenced by a state or local government entity to collect fees for a governmental service. Specifies that the language in the proposed legislation is not to be construed to impair the ability of a state or local regulatory or licensing agency to enforce administrative or other rules. Specifies these provisions will apply to all actions that accrue on or after July 1, 2012.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- Specifying the intent not to impair the court's ability to recognize or to create or confer certain rights of action in the absence of a controlling statute, to utilize the doctrine of negligence per se, or to recognize a private right of action commenced by a state or local governmental entity does not result in a fiscal impact to the state trial or appellate courts.
- Specifying the intent not to impair the ability of a state or local regulatory or licensing agency to enforce administrative or other rules does not result in a significant state or local impact.

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- Specifying that this provision applies to each cause of action contained in the complaint will not have a fiscal impact on state or local government.
- Requiring express statutory language creating a private right of action before one would exist will not result in a fiscal impact to the state trial or appellate courts.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/lsc